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PARTIAL CONSTITUTIONAL REVISION: FUTURE CONSTITUTIONAL AMENDMENTS, STATE CIVIL SERVICE

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California Proposition 5 (1970).
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procedure used in introducing it. All substantive changes in the State Constitution should be initiated by the Legislature or directly by the people, not by any appointed commission, and should be voted on individually in every case.

JOHN G. SCHMITZ
State Senator, 34th District

Rebuttal to Argument Against Proposition 4

Propositions 2, 3, 4 and 5 were taken from the 1968 revision package and are now presented as a series of proposals. Propositions 2, 3, 4 and 5 were readopted by the Legislature in 1969 by a two-thirds vote of each house. Although recommended by the Constitution Revision Commission, these propositions were subject to change or rejection by the Legislature.

Members of the California Constitution Revision Commission are citizens appointed by the Legislature and they serve without pay. They have been working since 1964 to give

California a new Constitution. Recommendations approved by the people in 1966 have streamlined our executive branch, strengthened the judiciary, and helped make the California Legislature the finest in the country. The money spent on Commission work has been appropriated each year by the Legislature and no money is actually spent without prior approval by the Legislature. At no time has the Legislature spent as much on Commission work as claimed in the opposing argument. The figures in that argument are not only misleading—they are inaccurate.

There is no land in California available for homestead. Any land that might become available in the future can be settled in accordance with statutory law. This is what Proposition 4 proposes, and statutes to do this have already been signed into laws which will become effective upon approval of Proposition 4.

JUDGE BRUCE W. SUMNER,
Chairman,
Constitution Revision Commission

PARTIAL CONSTITUTIONAL REVISION: FUTURE CONSTITUTIONAL AMENDMENTS, STATE CIVIL SERVICE. Legislative Constitutional Amendment. Permits Legislature to revise its proposed constitutional changes before submission to electorate. Revises civil service provisions to exempt appointees of Lieutenant Governor and one employee of Public Utilities Commission.	
5	YES
	NO

(For Full Text of Measure, See Page 23, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise provisions of the California Constitution concerning (1) procedures for amending and revising the Constitution, (2) initiative and referendum, and (3) state civil service.

A "No" vote is a vote to reject this revision.

For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise portions of Articles IV, XVIII, and XXIV of the California Constitution. The revision would retain some existing provisions without change and would restate other provisions some with and some without substantive change. In addition, certain existing provisions would be deleted from the Constitution thus placing the subject matter of the deleted provisions from then on under legislative control through the enactment of statutes. Chapter 853 of the Statutes of 1969 is such a statute. It will take effect if this measure is adopted.

Amending and Revising the Constitution and Initiative and Referendum Measures

Generally, Sections 22 and 24 of Article IV and Article XVIII of the Constitution now provide:

(1) Constitutional amendments may be proposed for submission to the voters (a) by the Legislature and (b) by electors through

the initiative process. Revision of the Constitution may be proposed by the Legislature.

(2) If provisions of two or more amendments proposed by initiative or referendum measures approved at the same election conflict, the provisions of the measure receiving the highest affirmative vote prevail. There is no such express provision regarding amendments proposed by the Legislature.

(3) The Legislature by two-thirds vote may submit to the voters the proposition as to whether to call a convention to revise the Constitution. If the proposition is approved by a majority of those voting on it, the Legislature at its next session must provide by law for the calling of a convention consisting of delegates (not to exceed the number of legislators) who are to be chosen in the same manner and to have the same qualifications as legislators. Delegates are required to meet within three months of their election.

The revision would retain the general substance of these provisions with the following major changes:

(1) A new provision would be added specifically authorizing the Legislature, by a two-thirds vote of the membership of each house, to amend or withdraw a constitutional amendment or revision which the Legislature has proposed where the action is taken before the proposal has been voted on by the electorate.

(2) (a) The general requirement that the Legislature provide for the constitutional convention at the session following the voters'

approval of the proposition authorizing the convention would be replaced with a requirement that the Legislature provide for the convention within six months after the voters' approval.

(b) The existing constitutional limitations on the number of elected delegates to a constitutional convention and the requirement that they have the same qualifications and be chosen in the same manner as legislators would be deleted. A requirement would be added that the delegates, each of whom must be a voter, be elected from districts as nearly equal in population as may be practicable.

(c) The existing constitutional requirement that the delegates meet within three months after their election would be deleted.

(3) A provision would be added that if two or more measures amending or revising the Constitution are approved by the voters at the same election and they conflict, the provisions of the measure receiving the highest affirmative vote shall prevail. Thus no distinction would be made in the Constitution as between amendments proposed by the Legislature and by initiative measures.

(4) Provisions prescribing detailed procedures for submitting to the voters, revisions proposed by the constitutional convention and certifying the results of the election would be deleted.

Effective Date of Ballot Measures

Section 24 of Article IV of the Constitution now provides that an initiative or referendum measure takes effect five days after the official declaration of vote by the Secretary of State, unless the measure provides otherwise, while the constitutional amendments and revisions submitted by the Legislature take effect upon approval by the voters, unless the measures provide otherwise.

Under the revision the provision for the effective date of all ballot measures would be the same, no matter how the ballot measures originated. Each ballot measure would become effective the day after the election at which it is approved, unless the measure provides otherwise.

State Civil Service

Generally, Article XXIV of the Constitution now provides for (1) a state civil service which includes every state officer and employee, with certain specified exceptions; (2) permanent appointments and promotions based upon merit ascertained by competitive examination; (3) a Personnel Board to enforce the civil service laws, and an executive officer to perform and discharge all powers and functions vested in the board by the Constitution or by law, except for certain specified duties requiring action by the board itself; (4) temporary appointments; and (5) preferences for veterans and their widows.

The revision would retain the substance of these provisions with the following major changes :

(1) All employees of the Lieutenant Governor's Office directly appointed or employed by the Lieutenant Governor would be removed from the civil service system.

(2) The number of exemptions for the Public Utilities Commission would be reduced.

(3) The Constitution now provides an exempt position for each board and commission whose members are appointed by the Governor. Under the revision, an exempt position would also be given to each statutory state board or commission whose members are not appointed by the Governor.

(4) The existing constitutional provision which authorizes the Legislature to transfer into the civil service system exempt positions, except elected officers, Governor's appointees, and employees in the Governor's Office, employees of the University of California, and militia on active duty, would be deleted. Under the revision, if exempt positions are brought under civil service by constitutional amendment, the State Personnel Board would be authorized to include within the state's civil service system individuals holding exempt positions.

(5) Employees of a county, city, or district or a federal agency in programs taken over by the state would be allowed to qualify for their positions in the state civil service system subject to such minimum standards as the Legislature may establish.

Statutes Contingent Upon Adoption of Above Measure

The text of Chapter 853 of the Statutes of 1969, which was enacted to become operative if and when the above revision is approved, is on record in the office of the Secretary of State in Sacramento and also contained in the 1969 published Statutes. It would add two sections, as follows, to the Government Code:

(1) Requires that delegates to a constitutional convention be voters elected from districts as nearly equal in population as may be practicable.

(2) Provides that the executive officer of the State Personnel Board shall administer the civil service statutes under rules of the board, subject to the right of appeal to the board.

Argument in Favor of Proposition 5

This proposition addresses itself to the revision of two articles.

The first portion of this proposition is designed to improve our Constitution by making initiative and legislative amendments procedurally the same.

Existing Article XVIII contains lengthy arrangements for constitutional conventions. A YES vote removes unused procedural material and orders the Legislature to provide for a convention when requested by a majority of the voters.

The revision assures that convention delegates will be elected from districts "as nearly equal in population as may be practicable", which the present constitution does not. This revision also permits the Legislature to withdraw its own approved amendments should such action be desired by the Legislature. It also specifies that the effective date of constitutional amendments, whether proposed by the Legislature or initiative, will be the same. Present provisions fail to make such consideration.

Article XXIV exempts employees in the Lieutenant Governor's Office from civil service and increases the number of non-Civil Service positions available to certain boards and commissions appointed by the Governor, all of which are policy-making bodies. A **YES** vote on revised Article XXIV retains the basic structure of the State Civil Service System which has been praised as the best in the country. This alteration eliminates superfluous language from the article without substantive revision.

PAUL PRIOLO
Assemblyman, 60th District
WADIE P. DEDDEH
Assemblyman, 77th District
ROBERT S. STEVENS
Senator, 25th District

Argument Against Proposition 5

Proposition 5 would allow the unnecessary and unused Article XVIII to remain in our Constitution. This article provides for calling of a constitutional convention by a vote of the people.

It has not been used in more than 30 years, and has never resulted in a convention. A similar provision exists in the Federal Constitution, and it too has never been used. Students of constitutional government have pointed out the dangers in allowing a mob to make government through a constitutional convention. Governmental decisions should be left up to those who are elected for that purpose. To empower the people as a whole to tamper with the Constitution is the first step toward anarchy.

California does not need the power to call constitutional conventions; good government demands that we not have it. Procedural red tape, which now exists in the California Constitution, helps prevent the calling of a constitutional convention. It should be kept in the Constitution.

Constitutional Amendment 28, while containing several laudable changes, has this one fatal flaw. Therefore, it should be defeated.

MILTON V. AMARAL

6	6	3 AND COUNTY BOARDS OF EDUCATION: TEXTBOOKS. Legislative Constitutional Amendment. Legislature shall provide for appointment or election of State Board of Education and county boards. State board shall adopt textbooks for grades one through eight to be furnished free.	YES	
			NO	

(For Full Text of Measure, See Page 26, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to remove from the State Constitution provisions requiring that the state-adopted textbooks for elementary schools be in uniform series, as well as various other provisions regulating the adoption, production, distribution, and use of such textbooks, and provisions charging county superintendents and county boards of education with responsibilities in connection with the examination and certification of teachers, thus making these matters subject to legislative control.

A "No" vote is a vote to retain these provisions in the Constitution.

For further details see below.

Detailed Analysis by the Legislative Counsel

Section 7 of Article IX of the State Constitution now directs the Legislature to provide for the appointment or election of a State Board of Education and for a board of education in each county. It requires the state board to compile, adopt, produce, and distribute a uniform series of textbooks to be furnished, free of charge, to all children attending the

(Continued on page 16, column 1)

Cost Analysis by the Legislative Analyst

Of the several constitutional modifications contained in ACA 60, only the change with respect to the distribution of free textbooks has any significant fiscal implications. SB 225 (Chapter 1110) adopted by the 1969 Session of the Legislature will become operative only upon the approval of ACA 60.

The State of California supplies free textbooks for use in public schools through an appropriation from the General Fund contained each year in the Budget Act. The cost to the state for this program varies considerably from year to year but has averaged \$20.6 million per year over the last four fiscal years, of which \$13.9 million was for basic textbooks. The state cost for free textbooks is a part of approximately \$1,489 million which the state currently appropriates for support of public schools for all purposes.

With the inauguration of the multiple adoption system authorized by ACA 60 in lieu of the single adoption system presently required by the Constitution, there will, in all probability, be an element of increased unit and total printing cost to the state resulting from the production of additional titles. Against

(Continued on page 16, column 2)

PARTIAL CONSTITUTIONAL REVISION: FUTURE CONSTITUTIONAL AMENDMENTS, STATE CIVIL SERVICE. Legislative Constitutional Amendment. Permits Legislature to revise its proposed constitutional changes before submission to electorate. Revises civil service provisions to exempt appointees of Lieutenant Governor and one employee of Public Utilities Commission.

YES

NO

(This amendment proposed by Assembly Constitutional Amendment No. 28, 1969 Regular Session, expressly amends an existing section of the Constitution, repeals existing articles thereof, and adds new articles thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** or **REPEALED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLD-FACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLES IV, XVIII, AND XXIV

First—That subdivision (a) of Section 24 of Article IV is amended to read:

Sec. 24. (a) An initiative statute or referendum measure approved by a majority of the votes thereon takes effect 5 days after the date of the official declaration of the vote by the Secretary of State the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder of the statute shall not be delayed from going into effect.

Second—That Article XVIII is repealed.

ARTICLE XVIII

AMENDING AND REVISING THE CONSTITUTION

SECTION 1. Any amendment or amendments to, or revision of, this Constitution may be proposed in the Senate or Assembly; and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment, amendments, or revision shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment, amendments, or revision to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments; or any of them; or such revision, by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of this Constitution; and such revision shall be the Constitution of the State of California or shall become a part of the Constitution if the measure revises only a part of the Constitution.

Sec. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors

to vote at the next general election for or against a Convention for that purpose; and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection; in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State; and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

Third—That Article XVIII is added, to read:

ARTICLE XVIII

Amending and Revising the Constitution

Sec. 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately.

Sec. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable.

Sec. 3. The electors may amend the Constitution by initiative.

Sec. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions

of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

Fourth—That Article XXIV is repealed.

ARTICLE XXIV

STATE CIVIL SERVICE

SECTION 1. Permanent appointments and promotion in the State civil service shall be made exclusively under a general system based upon merit, efficiency and fitness as ascertained by competitive examination.

SEC. 2. (a) There shall be a State Personnel Board of five members appointed by the Governor with the advice and consent of the Senate. The first terms of office shall expire on January 15, 1937; January 15, 1939; January 15, 1941; January 15, 1943; and January 15, 1945. Each subsequent appointee shall hold office for 10 years from the expiration of the term of his predecessor and until his successor is appointed and qualified; except that an appointment to a vacancy occurring before the expiration of a term shall be but for the remainder of that term. A member may be removed by a vote of two-thirds of the members elected to each house of the Legislature.

(b) The board shall annually elect one of its members president.

(c) The board shall appoint and fix the compensation of an executive officer who shall be a member of the State civil service but not a member of the board.

Said executive officer shall perform and discharge all of the powers, duties, purposes, functions and jurisdiction hereunder or which hereafter by law may be vested in the board except that the adoption of rules and regulations, the creation and adjustment of classifications and grades, and dismissals, demotions, suspensions and other punitive action for or in the State civil service shall be and remain the duty of the board and a vote of a majority of the members of said board shall be required to make any action with respect thereto effective.

SEC. 3. Said board shall administer and enforce, and is vested with all of the powers, duties, purposes, functions, and jurisdiction which are now or hereafter may be vested in any other state officer or agency under, Chapter 590 of the California Statutes of 1913 as amended or any and all other laws relating to the state civil service as said laws may now exist or may hereafter be enacted, amended or repealed by the Legislature.

SEC. 4. (a) The provisions hereof shall apply to, and the term "state civil service" shall include, every officer and employee of this State except:

1. State officers elected by the people.

2. State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office.

(3) State officers and employees directly appointed or employed by the Attorney General or the Judicial Council; or by any court of record in this State or any justice, judge or clerk thereof.

(4) State officers and employees directly appointed or employed by the Legislature or either house thereof.

(5) One person holding a confidential position to any officer mentioned in paragraphs (1), (2) or (4) hereof except that there shall be but one such position to any board or commission composed in whole or in part of officers mentioned in said paragraphs; each such person to be selected by the officer, board or commission to be served.

(6) One deputy for the Legislative Counsel and for each state officer elected by the people; each such deputy to be selected by the officer to be served.

(7) Persons employed by the University of California.

(8) Persons employed by any state normal school or teachers college.

(9) The teaching staff of all schools under the direction or jurisdiction of the Superintendent of Public Instruction; the Department of Education or the director thereof or the State Board of Education who otherwise would be members of the state civil service.

(10) Employees of the Federal Government, or persons whose selection is subject to rules or requirements of the Federal Government, engaged in work done by cooperation between the State and Federal Government or engaged in work financed in whole or in part with federal funds.

(11) Persons appointed or employed by or under the State Board of Prison Directors or any warden of a state prison.

(12) The officers and employees of the Railroad Commission.

(13) Member help in the Veterans' Home of California and inmate help in all state charitable or correctional institutions.

(14) The members of the militia of the State while engaged in military service.

(15) Officers and employees of district agricultural associations employed less than six months in any one calendar year.

(16) Stewards and veterinarians of the California Horse Racing Board who are not employed on a full time basis.

(b) The Legislature may provide that the provisions of this article shall apply to, and the term "state civil service" shall include, any person or group of persons hereinbefore excepted other than those mentioned in paragraphs (1), (2), (7) or (14) of subdivision (a) of this section. Hereafter, no exception shall be revived with respect to any person or group of persons heretofore or hereafter included in the state civil service under this subdivision. The Legislature may, however, provide that any officer included in the state civil service pursuant to this paragraph may be appointed by the Governor, and in such case the provisions of paragraph (2) shall apply.

(e) Whenever the appointment or employment of new or additional officers or employees of this State is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the state civil service unless of a class excepted herein.

Sec. 5. The provisions of this article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation.

Sec. 6. (a) No temporary appointment of a person to any position shall be made unless there is no employment list from which such position can be filled.

(b) No person shall hold a given position under temporary appointment for a longer period than nine months in any consecutive 12 months; nor shall any person serve in the state civil service under temporary appointment for a longer total period than nine months in any consecutive 12 months.

Sec. 7. Nothing herein contained shall prevent or modify the giving of preferences in appointments and promotions in the State civil service to veterans and widows of veterans as is now or hereafter may be authorized by the Legislature.

Fifth—That Article XXIV is added, to read:

ARTICLE XXIV

State Civil Service

Sec. 1. (a) The civil service includes every officer and employee of the state except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

Sec. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members chairman.

(c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board.

Sec. 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board.

Sec. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.

Sec. 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months.

Sec. 6. (a) The Legislature may provide preferences for veterans and their widows.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the state undertakes work previously performed by a county, city, public district of this state or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue their positions in the state civil service subject to such minimum standards as may be established by statute.